

**WILLIAM TATE, individually and on behalf  
of all others similarly situated,**

**Plaintiff,**

**v.**

**HARTSVILLE/TROUSDALE COUNTY,**

**Defendant.**

)  
)  
)  
)  
)

No. 3:09-0201  
**Campbell/Bryant**

)  
)  
)

The defendant, Hartsville, Trousdale County, Tennessee, hereby notes its objection on the record to the plaintiff's motion for a two week extension of time (from October 7 until October 22, 2010) to file responses to this defendants Motion to Decertify Class, Motion to Strike Tables, and Motion to Deem Statements of Fact Admitted. As the basis for its objection, this defendant states the following:

This defendant initially filed its Motion for Summary Judgment on July 23, 2010. On the last possible date to respond to said motion, the plaintiff filed a Motion for Extension of Time seeking an extension of time to respond to said motion to and until August 26, 2010. In support of the motion, plaintiff's attorney cited, in detail, a heavy work load as well as his involvement as Chairman of the Board of a non-profit organization. The defendant did not object, and the Court granted said motion

promptly.

On August 26, 2010, plaintiff moved for a second extension of time to respond to defendant's Motion for Summary Judgment, citing again counsel's heavy work load and the fact that the plaintiff's counsel has returned to school to receive a Masters Degree in Economics. The plaintiff sought and promptly received an extension of time to and until August 31, 2010. This defendant did not object to this extension.

August 31, 2010, came and went without any filing by plaintiff's attorney. On September 1, 2010, plaintiff sought and received an extension of time for the late filing of his responsive pleadings, citing an incident which he had while riding horses (or training horses or some equestrian activity).

On September 20, 2010, the defendant filed a Motion to Decertify the Class, Motion to Strike Tables filed by plaintiff, and Motion to Deem Statements of Fact Admitted. On October 7, 2010 (the final possible date for filing a response, including the 3 day mailing days) the plaintiff filed a Motion for Extension of time to respond to these motions. The plaintiff seeks an additional two weeks, until October 22, 2010 (for a total of 31 days) to respond to the motions filed by the defendant. The plaintiff cites, as the reason for this extension of time, the importance of the issues raised by defendant's motions and his opinion that the defendant did not provide any analysis for the Court to rely upon in deciding the motions. Plaintiff's counsel contends that it is up to him to properly analyze these important issues and he needs a month to do so.

The defendant objects to the plaintiff's two week extension of time to and until October 22, 2010 on the grounds that it prejudices the defendant in preparation for a December 7, 2010, trial date for this case. If the plaintiff is granted an extension of time to October 22, 2010 then this defendant will either: (1) be summarily denied time to reply; (2) be required to file a reply at the end of October, during a week which the undersigned is out of town in depositions and in required Continuing Legal Education; or (3) be required to seek additional time to file a reply. This will push the Court's decision on the issue of class certification within a month of the trial, and perhaps beyond the November 15, 2010, deadline for filing motions in limine.

Since the decision in this action will likely be appealed to the Sixth Circuit Court of Appeals, regardless of the outcome, this defendant does not want a continuance of this trial. This defendant seeks to have this phase of the proceeding concluded at the earliest possible date, either by grant of its Motion for Summary Judgment or at the December trial. Defendant submits that the plaintiff's continued delays will result in prejudice to the defendant in trial preparation or, the necessity of a continuance of the trial.

The defendant submits that since the plaintiff's counsel opines that the motions before the Court do not provide the Court with correct analysis, he should not need thirty days to respond to the motions. Furthermore, the defendant submits that the all attorneys appointed as class counsel in a class action should anticipate a Motion to Decertify, and should have arguments prepared for that motion. The plaintiff's arguments to support the class should be prepared prior to seeking class certification

to begin with, not within a month of the trial of the action.

Finally, this defendant further submits that the continued need for extensions, the heavy work load of plaintiff's counsel—a sole practitioner—, and the numerous cited non-legal endeavors which plaintiff's counsel is devoted to which have necessitated numerous extensions of time, are bases for disqualification of class counsel, and decertification of the class at this time. It appears from the record that this class counsel does not have time to properly prepare and present a class action for trial on December 7, 2010.

For the foregoing reasons, the defendant Hartsville/Trousdale County objects to the plaintiff's motion for extension of time to respond to the pending motions, and that the Court rule on said motions, and prays this Court to rule on said motions based upon the record before it.

Respectfully Submitted,

FARRAR & BATES, L.L.P.

/s/Mary Byrd Ferrara

Mary Byrd Ferrara (BPR #000229)

Heather C. Stewart (BPR # 23914)

211 Seventh Avenue, North,

Suite 500

Nashville, TN 37219

Phone: (615) 254-3060

***Attorneys for Defendant***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 12<sup>th</sup> day of October, 2010, a true and correct copy of the foregoing has been forwarded via the District Court's Electronic Mail system, to:

Jerry Gonzalez, Esq.  
2441-Q Old Fort Parkway  
Box 381  
Murfreesboro, TN 37128  
(615) 360-6060  
*Attorney for Plaintiff*

/s/ Mary Byrd Ferrara  
Mary Byrd Ferrara